

REMARKS

Reconsideration of the pending application is respectfully requested on the basis of the following particulars.

1. Information disclosure statement

An information disclosure statement is filed concurrently herewith citing patent documents listed in the International Search Report in the PCT application from which the pending application claims the benefit of priority. While a concise explanation of the non-English patent document listed in the statement is not necessary since their relevancy is delimited in the English language search report, a brief explanation is nonetheless provided in the statement.

2. In the specification

The specification has been amended to include appropriate section headings and to remove reference to the pending claims in the section entitled "Summary." Acceptance of the amendment to the specification is requested in the next communication from the Examiner.

3. In the claims

Independent claims 1, 4, 8 and 12 are currently amended, as presently shown above in the "Amendment to the Claims." In the amendment of these claims, each of these independent claims clarifies that the loader interface cannot access the address space once it is assigned with the load application. This amendment makes explicit that which was implicit in these claims as originally filed. Support for this language is provided in the specification on page 6, second and third full paragraphs.

The amendment to the independent claims is submitted to improve the clarity of the subject matter for which protection is sought. The amendment is not made to avoid prior art, as it is believed that the original claims are fully patentable over the cited prior art. Rather, in reviewing the claim language, it was perceived that some of the language could be improved to more clearly define the inventive subject matter.

It is to be noted that the Examiner did not raise any objections with regard to the language of the original claims under 35 U.S.C. § 112 or any other part of the patent laws and regulations.

Entry of the amendment of the claims is respectfully requested in the next Office communication.

4. Rejection of claims 1-5 and 8-12 under U.S.C. 103 (a) as being unpatentable over U.S. patent 5,923,884 (Peyret et al.) in view of U.S. patent 6,493,550 (Raith)

This rejection is respectfully traversed in view of the clarification of independent claims 1, 4, 8 and 12 in the amendment to the claims. More specifically, the proposed combination of the Peyret et al. and Raith patents fails to disclose or suggest a loader interface that does not access the address space once it is assigned with the load application. Accordingly, the combination of the Peyret et al. and Raith patents does not amount to a prima facie case of obviousness against the pending claims.

Therefore, independent claims 1, 4, 8 and 12 are patentable. Dependent claims 2, 3, 5, 6 and 9-11 are also patentable based on their dependency of one of claims 1, 4, 8 and 12, and their individually recited features.

Turning to the Peyret et al. patent, it is clear that this patent describes a single universal loader, and not, as specifically required by the pending independent claims, a loader interface that cannot access an assigned space once the space is loaded with a load application. Instead, the Peyret et al. patent describes a single universal loader, and not, as required by the claims, two different loaders, namely the "loader interface" and the "load application" in relation to assigning free memory space to the load application.

The Peyret et al. patent describes a smart card which enables the loading of applications and associated use rights into memory at any time (col. 3, lines 46-53).

When loading the application, a universal single loading program is provided (col. 3, lines 54-60; col. 6, lines 15-22; col. 7, 10-13). In respect to the logical structure description, the single loading program is referred to as a conditional application loader, or, otherwise, as a "universal" loader.

As specified by the Peyret et al. patent, the universal loader controls the loading process (col. 6, lines 20-22) by examining, whether sufficient free memory is provided by the card for the application to be loaded (col. 7, lines 10-13), and if necessary, causes that old applications with invalid use rights are cancelled or overwritten (col. 7, lines 13-16). Moreover, the universal loader examines the authorization for performing a loading process (col. 7, lines 43-53).

In view of the description of the universal loader by the Peyret et al. patent, it is submitted that nowhere is there any description of a loader interface that cannot access an assigned address space with a load application.

According to the pending claims, the loader interface is an integral component of the data carrier, while the load applications that may be assigned address spaces are optional. It follows that the loader interface is only active until it assigns an address space to a load application. In this instance, the loader interface can no longer access the assigned address space.

In particular regards to pending claim 8, the Raith patent fails to make up for the shortcomings of the Peyret et al. patent.

The Raith patent describes a mobile telephone system that may be operated in a regular telecommunication operating mode and in an operating mode, which is adapted to short-range private communication systems. By means of sensors for checking the presence of a mobile phone and appropriate signals, the private communication system recognizes the presence of a mobile phone (last paragraphs of cols. 7 and 8). In connection with the private communication system, a mobile phone

or a smart card being present in the mobile phone may be applied as an access pass by sending authorization data to the communication system (col. 9, lines 49-64).

It is readily apparent, in view of the aforementioned description, that the Raith patent does not provide any suggestion to loading applications to a card by means of a specialized loader program, as presently recited in claims 8 and 12. Moreover, the Raith patent does not provide any hint as to a "badge," as required by claim 8, that is a digital information serving to manage a chip card's memory in an efficient manner.

It is submitted that the proposed combination of the Peyret et al. and Raith patents fails to amount to a prima facie case of obviousness of the pending claims.

First, the Peyret et al. and Raith patents, whether considered collectively or individually, fail to disclose each and every feature required by claims 1, 4, 8 and 12. Next, there is no evidence of a suggestion existing in the Peyret et al. and Raith patents that would motivate one of ordinary skill in the art to combine the teachings of both the Peyret et al. and Raith patents to devise a data carrier and method including a loader interface according to the pending claims. Lastly, in view of the fact that the Peyret et al. patent refers to a smart card, and the Raith patent refers to a telephone communication system, it is submitted that one of ordinary skill in the art would not be motivated by these divergent teachings to make the data carrier according to claims 1, 4, 8 and 12. Also, since these patents pertain to unrelated technologies, there is no reasonable expectation of success that one skilled in the art would even be able to make or devise the inventive data carriers and methods according to the application.

Therefore, withdrawal of this rejection based on the Peyret et al. and Raith patents is respectfully requested.

5. Conclusion

In view of the amendments of the claims and the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that the pending claims be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the applicants' attorney, the examiner is invited to contact the undersigned at the numbers shown below.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Justin J. Cassell", written in a cursive style.

Date: August 25, 2005

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